

**AN ORDINANCE AMENDING ARTICLE 505 OF THE GENERAL OFFENSES CODE
REGULATING THE KEEPING OF ANIMALS AND FOWL**

WHEREAS, West Virginia Code section 8-12-5(26) gives the City the plenary power and authority to regulate or prohibit the keeping of animals and fowl and to provide for the impounding, sale or destruction of animals or fowl kept contrary to law or found running at large; and

WHEREAS, the City currently regulates the keeping of animals and fowl in Article 505 of the General Offenses Code; and

WHEREAS, updating the regulations in the General Offenses Code will promote clarity in the law and uniformity in enforcement of the law while contributing to the health and safety of residents and permitting the responsible keeping of animals and fowl within the City;

NOW, THEREFORE, the City of Morgantown hereby ordains that Article 505 of the General Offenses Code is amended as follows:

505.01 DOGS AND OTHER ANIMALS RUNNING AT LARGE.

(a) No person being the owner or having charge of ~~cattle, sheep, geese, ducks, turkeys, chickens or other~~ fowl or animals shall permit them to run at large upon any public place, or upon any unenclosed lands, or upon the premises of another.

(b) ~~No person being the owner of or having charge of any dog shall permit it to run at large upon any public place or upon the premises of another.~~ Dogs not confined on the owner's property shall be maintained on a leash of a length no longer than six feet. The name and address of the owner and the City tax tag shall be attached to the collars of dogs at all times. The regulations governing the keeping of dangerous dogs as set forth in Section 505.04 shall supersede any conflicting provisions within this subsection.

(c) The running at large of any ~~such~~ animal in or upon any of the places mentioned in this section is prima-facie evidence that it is running at large in violation of this section.

(d) For purposes of this section, cats shall be permitted to run at large only if such cat is wearing identification as set forth in Section 505.15.

(e) Should any dog, while running at large, bite or otherwise inflict injury upon any person, the person or owner having charge of any such dog shall be guilty of a misdemeanor, shall be fined five hundred dollars (\$500.00), and may be ordered by the Municipal Judge to provide restitution, where appropriate. A conviction for the violation of this particular subsection shall not be a prerequisite for the filing of a civil action by the victim of any such dog incident.

505.02 KEEPING ANIMALS; PENS AND STABLES.

(a) Definitions. The following definitions shall apply in this Section 505.02:

- (1) Domestic Poultry – Domesticated birds ordinarily kept for eggs, meat, or feathers.
- (2) Free-range – A method of farming husbandry where the animals, for at least part of the day, can roam freely outdoors, rather than being confined in an enclosure (e.g., coops, pens, etc.) for twenty-four (24) hours each day.
- (3) Premises – An area of land occupied by the Principal Building(s), accessory structure(s), and/or other physical uses which are an integral part of the activity conducted upon the land and such open spaces as are arranged and designed to be used in conjunction with that activity.
- (4) Principal Building – A building in which is conducted the main or principal use of the premises on which said building is situated

~~(a) (b) Rabbits. No person shall confine, keep or house live rabbits, exceeding two in number, within the City, in any pen, coop or structure located within 120 feet of the residence or dwelling of any other person without the consent of such person in writing.~~
~~(1967 Code Sec. 4-4.)~~

A maximum of three (3) rabbits, ten (10) weeks of age and older, may be kept on a Premises; provided, not more than one (1) rabbit, ten (10) weeks of age and older, is male. Ownership, care and control of the rabbits shall be the responsibility of a resident of the Premises. Free-range is prohibited and rabbits shall be confined to a pen and/or coop, where permitted, twenty-four (24) hours each day. State health regulations may further limit the number and/or manner of keeping rabbits.

~~(b) Permitting Pens to Become Offensive. No person shall permit any yard, kennel, pen, coop, or other structure wherein live animals may be confined, kept or housed to become or be offensive, noxious or deleterious to health.~~
~~(Ord. 94-77. Passed 10-18-94.)~~

~~(c) Domestic Poultry Chickens. No person shall confine, keep or house chickens or other domestic fowl, exceeding two in number, in any pen, coop or structure located within eighty feet of the residence or dwelling of any other person without the consent in writing of such other person; provided, that this section shall not be construed to prohibit the proprietor of any market, hotel, restaurant, boarding house or residence from keeping or confining for sale or slaughter chickens or other fowls in a pen or coop within such prescribed limit for a period not exceeding ten days; provided that such pen or coop is thoroughly cleaned at least once during each forty-eight hour period and rendered free from offensive, noxious or deleterious odors.~~
~~(1967 Code Sec. 4-6.)~~ A maximum of six (6) domestic poultry birds may be kept on a premises. Only chickens and ducks are permitted as domestic poultry birds within the City, and no other type of Domestic Poultry may be kept within the City. Roosters are prohibited. Ownership, care and control of domestic poultry shall be the responsibility of a resident of the premises. Free-range shall be prohibited and domestic poultry shall be confined to a pen and/or coop, where permitted, twenty-four (24) hours each day. State health regulations may further limit the number and/or manner of keeping domestic poultry.

~~(d) Permitting Coops to Become Offensive. No person shall permit any pen, coop or other structure wherein chickens or other fowl may be confined, kept or housed, to become offensive, noxious or deleterious to health.~~

~~(1967 Code Sec. 4-7.)~~

~~(e) Stables. Whoever shall keep a stable within the City shall cause all the stable manure produced thereat to be kept within such stable until hauled away, and he shall in no case allow such manure to accumulate in such quantities or condition as to become offensive, or deleterious to health; and all manure so kept within the stable shall be protected from flies by means of screens or other fly-excluding devices. The floor of every stable shall be kept free from standing or seeping stable liquids, excrements and other offensive matters.~~

~~(1967 Code Sec. 4-8.)~~

(d) Hoofed Animals. Hoofed animals, including but not limited to cattle, horses, goats, sheep, pigs, deer, and donkeys, are prohibited with the exception of miniature pet pigs.

(e) Regulations. All Rabbits, Domestic Poultry, bees, and miniature pet pigs within the City may be kept only in accordance with the following regulations:

- (1) The keeping of animals shall not create a nuisance due to noise, dust, rodents, and/or obnoxious odor.
- (2) All structures used to house, contain, or supply animals, and all roaming areas used by or for animals, shall be kept sanitary and free from accumulations of animal excrement and obnoxious odor.
- (3) The keeping of animals shall be permitted only on a Premises where there is an occupied dwelling unit.
- (4) Premises where animals are kept shall be well-maintained, regularly cleared of debris and free of excessively tall weeds and grass as provided in the International Property Maintenance Code (IPMC).
- (5) Pens, coops, fences, apiary structures, and all other structures related to the keeping of animals are subject to applicable building code requirements and shall be well maintained.
- (6) Pens, coops, fences, apiary structures, and all other structures related to the keeping of animals
 - (A) Shall not be placed in the front yard. If placed in a side yard, such structures, including fences for coops, shall not be located closer to the street than the building line of the Principal Building on the Premises.
 - (B) On corner lots, such structures, including fences for coops, shall not be located between any portion of the Principal Building on a Premises and either street.
 - (C) Shall not be placed closer than ten (10) feet to the side or rear property line nor closer to a Principal Building of an adjoining Premises than to the Principal Building of the Premises used for keeping animals.
- (7) The keeping of animals as permitted in this section is subject to all applicable building and fire codes. Building permits and other applicable permits must be

obtained before keeping animals, if such permits are required by City Code. A business license and home occupation permit will be required for any sales of animals or animal products.

- (8) All feed shall be stored in a secured, rodent-proof container and housed within an enclosed structure.

(f) Registration. The resident of any Premises responsible for the ownership, care, and control of animals permitted by this Section 505.02 shall register with the City Manager's office on a form prescribed by the City Manager or his designee within sixty (60) days of the date of adoption of this ordinance, and, if not keeping permitted animals at the time of adoption of this ordinance, prior to keeping or maintaining any animal permitted by this Section 505.02.

(g) This section shall not apply to prevent the conduct of educational programs at educational institutions owned and controlled by the State of West Virginia or the Monongalia County Board of Education.

505.99 PENALTY.

(EDITOR'S NOTE: See Section 501.99 for general Code penalty if no specific penalty is provided).

(a) Whoever violates Section 505.01(b) shall be fined not more than one hundred dollars (\$100.00). Second offenders of Section 505.01(b) shall be subject to the penalty provided in Section 501.99 and also be given the alternative of paying the maximum fine under this section or present evidence of having their dogs spayed or neutered within thirty days of any violations hereof.

(b) Whoever violates Section 505.11 shall be fined not more than twenty-five dollars (\$25.00); provided, that after any violation has been called to the attention of the violator by any member of the Police Department of this City, each day on which such violation continues or is repeated shall constitute a separate offense.

(1967 Code Sec. 4-27; Ord. 90-8. Passed 4-3-90.)

(c) (1) Whoever violates Section 505.03(a) shall be fined not less than three hundred dollars (\$300.00) nor more than two thousand dollars (\$2,000) or imprisoned not more than thirty days, or both, for a first offense. Any person convicted of a second or subsequent violation of Section 505.01(a) shall be imprisoned for not more than thirty days or fined not less than five hundred dollars (\$500.00) nor more than three thousand dollars (\$3,000), or both. The incarceration set forth in this subsection shall be mandatory unless the provisions of subsection (c)(2) are complied with.

(2) A. Notwithstanding any provision of this Code to the contrary, no person who has been convicted of a violation of the provisions of Section 505.03(a) may be granted probation until the defendant has undergone a complete psychiatric or psychological evaluation and the court has reviewed such evaluation. Unless the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of said evaluation.

B. For any person convicted of a violation of subsection (c) of this section, the court may, in addition to the penalties provided in this section, impose a requirement that he or she complete a program of anger management intervention for perpetrators of animal cruelty. Unless

the defendant is determined by the court to be indigent, he or she shall be responsible for the cost of the program.

(3) In addition to any other penalty which can be imposed for a violation of Section 505.03, a court shall prohibit any person so convicted from possessing, owning or residing with any animal or type of animal for a period of five years following entry of a conviction. A violation under this subsection is punishable by a fine not exceeding two thousand dollars (\$2,000) and forfeiture of the animal.

(d) Whoever violates Section 505.03(b) shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand dollars (\$2,000).

(WVaC 61-8-19)

(e) Whoever violates Section 505.031 shall be fined not more than one thousand dollars (\$1,000) or imprisoned not more than thirty days, or both. In addition the Humane Officer may remove the dog or cat involved and place it in the pound and such dog or cat shall not be returned to the owner or perpetrator of the act of cruelty, but shall be put up for adoption to a desirable home, or given into the care of a humane society or upon the recommendation of a licensed veterinarian shall be humanely destroyed.

(f) In addition to any other penalty provided by law, any animal kept in violation of Section 505.02 or on premises in violation of Section 505.02 may be impounded, sold, or destroyed.

This Ordinance shall be effective upon date of adoption.

FIRST READING:

MAYOR

ADOPTED:

FILED:

CITY CLERK

RECORDED: